IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7112 of 2005

Between:

S.B. Naik S/o. S. Lakshma Naik
Presently working at Puttaparthi Depot, Ananthapur District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C. Hindupur Depot, Hindupur,
Ananthapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the proceedings No. M2/2(19)/99 HDP dt. 30-6-2000 and proceedings No. M2/2(19)/2000/HDP dt. 12-10-2000 of the respondent herein as illegal, arbitrary in violation of principles of natural justice and invilation of Art 14 and 21 of the Constitution of India and consequentially direct the respondent herein to add one annual increment to the pay of the petitioner.

Counsel for the Petitioner:S.SURENDRA KUMAR

Counsel for the Respondent: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following O R D E R:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No.7112 OF 2005

O R D E R:

The petitioner was appointed as driver in the respondent-Corporation. While so, the respondent-Corporation issued charge sheet dated 14.10.1999. Thereafter, the respondent without conducting any enquiry issued order-cum-show cause notice on 30.06.2000 imposing the punishment of withholding one increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment, with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 5 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, but in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect. By virtue of this order, petitioner is not entitled for any monetary benefits form the date of punishment till this date. However, he is entitled for notional calculation.

The writ petition is accordingly disposed of with the above observation. No costs.

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(K.C.BHANU,J)

Dt:01.04.2005

usd

To

1 The Depot Manager, A.P.S.R.T.C. Hindupur Depot, Hindupur, Ananthapur District.

2 Two CD copies.